

REMARKS

This amendment is being filed in response to the Office Action dated December 23, 2008. For the following reasons, this application should be considered in condition for allowance and the case passed to issue.

Claim Objections

Claims 1-20 were objected to because of an informality in line 8 of claim 1. The Examiner requested that the colon following the term "location" should be omitted. This colon has been omitted in response to the Examiner's objection. Accordingly, the objection should be reconsidered and withdrawn and such actions are courteously solicited.

Claim Rejections – 35 U.S.C. §101

Claims 1-16 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. In particular, it was stated that the claims were directed toward a computer-implemented method comprising various steps and failed to qualify as a statutory process for neither positively reciting the other statutory class to which it is tied, for example, by identifying the apparatus that accomplishes the method steps, or positively cite the subject matter that is being transformed.

This rejection has been obviated by the amendments to claim 1 to include the use of a processor to perform the various steps. This conforms with the computer-implemented method for distributing the parts to customer locations in accordance with claim 1. The processor is a statutory class and the processor is identified as an apparatus that accomplishes the method steps. Accordingly, reconsideration and withdrawal of the rejection to claims 1-16 under 35 U.S.C. §101 are respectfully requested.

Claim Rejections – 35 U.S.C. §102

Claims 1-15, 17 and 20 are rejected under 35 U.S.C. §102(e) as being anticipated by *Jenkins et al.* (hereafter referred to as "Jenkins"). This rejection is hereby traversed and reconsideration and withdrawal thereof are respectfully requested. The following is a comparison of the present invention as currently claimed with the Jenkins reference.

Embodiments of the present invention, such as recited in claim 1, relate to a computer-implemented method for distributing parts to customer locations in a volume-based fair share mode. The method comprises using a processor to prioritize requests for parts from inventory, and using the processor to prioritize customer locations that have need for the parts to create priorities for the customer locations. The processor is used to form a shipment plan by iteratively: assigning a defined minimum size allotment of the parts to the customer location having a current highest priority; and re-assigning the priorities of the customer locations until all of the parts from inventory have been assigned or no customer location needs more of the parts assigned.

The volume-based fair share mode to distribute the parts to the customer locations employs a minimum size allotment of the parts to the customer locations based on the priorities of the customer locations. The purpose of the algorithm is to bring each site with demand for the same part number to the same percentage need and eventually back to 100%, to thereby fulfill the definition of balanced inventory. See paragraph [23] in the specification. Minimum quantity, or minimum lot size, is used to act as a catalyst for a revolving algorithm. Using this minimum lot size, the request of the highest priority location is addressed and the minimum lot size is subtracted from this request and set aside in a temporary shipping document. The requests from the customer locations are then re-prioritized and run through the same scenario. The references do not show or suggest such an arrangement.

Jenkins describes a system and method for ensuring order fulfillment. The Examiner considers paragraphs 178-810, 236 and 272 as being of primary interest. Upon review of these sections, and the remainder of the Jenkins document, it is clear that Jenkins fails to identically disclose each and every element or step of the claimed invention.

Jenkins describes in paragraph [0178] that you can tell the planning component 210 which locations have priority over others when meeting demand. The planning component 10 will meet the demand at locations with highest priority first. In paragraph [0179], the planning component 210 is run in constrained mode and source stock is limited within the limited allocation duration, the priorities for allocating stock can be defined to meet specified categories of demand. In paragraph [0180], which describes when source stock is limited, the allocation strategy determines the order in which the planning component 10 allocates stock to meet demand within a given location priority. If there is inventory remaining after it meets

distribution demand, it will allocate stock for dependent demand, followed by forecasted customer orders, and so on. Respectfully, Jenkins fails to show forming a shipping plan by iteratively assigning a defined minimum size allotment of the parts to the customer location having a current highest priority and re-assigning the priorities of the customer locations until all of the parts from inventory have been assigned or no customer location needs more of the parts assigned. For showing such a feature, the Examiner focused on paragraph [0272] as the recalculation of priority values. However, claim 1 states that the re-assigning is of the priorities of the customer locations. In paragraph [0272] of Jenkins, an automated load builder 310 adds recommended shipments one at a time. To determine the order in which recommended shipments are added, a priority value is calculated for each recommended shipment based on the reward and penalty factors. The automated load builder 310 sorts recommended shipments by priority, from highest to lowest. The recommended shipment with the highest priority is added to the load first. Every time the automated load builder 310 adds a shipment to a load, it automatically recalculates priority values and re-sorts recommended shipments by priority. Re-prioritizing the shipments optimizes the load, since the priorities guide the algorithm into generating better quality loads. Although Jenkins discusses recalculating priority values, it is the shipments that are being prioritized, not the priority of the customer locations. Claim 1 of the present application recites “re-assigning the priorities of the customer locations until all of the parts from inventory have been assigned or no customer location needs more of the parts assigned.” Paragraph [0272] of Jenkins does not describe re-assigning the priorities of the customer locations. Nor is this described as being in an iterative process that is performed until all of the parts from inventory have been assigned or no customer location needs more of the parts assigned.

Similarly, Claim 17 recites a re-assigning of the priorities of the customer locations in an iterative formation of the shipment plan. For similar reasons, Jenkins fails to identically disclose this claimed feature.

Further, claim 20 has been amended to include re-assigning priorities of customer locations following assignment of a defined minimum size allotment of the parts to the customer location having a current highest priority. Jenkins fails to disclose re-assigning the priorities of customer locations following the assignment of the defined minimum size allotment of the parts to the customer location having the current highest priority.

For all of these reasons, since Jenkins fails to identically disclose each and every step or element of the claimed invention, claims 1-15, 17 and 20 should be considered allowable and the rejection of the claims under 35 U.S.C. §102(e) be reconsidered and withdrawn.

Claim Rejections – 35 U.S.C. §103

Claim 16 was rejected under 35 U.S.C. §103(a) as being unpatentable over Jenkins in view of *Chappel*. Claims 18-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Jenkins in view of *Benda et al.* (hereafter referred to as “Benda”). These rejections are hereby traversed and reconsideration and withdrawal thereof are respectfully requested.

Neither Chappel nor Benda overcome any of the deficiencies noted with respect to Jenkins. In particular, neither reference describes forming a shipment plan by iteratively assigning a defined minimum size allotment of the parts to the customer location having a current highest priority and re-assigning the priorities of the customer locations until all of the parts in inventory have been assigned or no customer location needs more of the parts assigned. Since claims 16 and 18-19 further depend from and limit claim 1 or claim 17 respectively, these dependent claims should be considered allowable over the combination of Jenkins and Chappel or Benda. Reconsideration and withdrawal of the rejection of claim 16 and 18-19 under 35 U.S.C. §103(a) are therefore respectfully requested.

In light of the amendments and remarks above, this application should be considered in condition for allowance and the case passed to issue. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

Application No.: 10/720,698

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,
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